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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETEDCARL J. KUNASEK
CHAIRMANJIM IRVIN
COMMISSIONERWILLIAM A. MUNDELL
COMMISSIONER

JUN 29 1999

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO INSTALL CROSSING
SIGNALS AT A CROSSING OF THE UNION
PACIFIC RAILROAD AT MINERAL HILL ROAD,
PIMA COUNTY, ARIZONA, M.P. BAN-1002.73-C.

DOCKET NO. RR-03639A-99-0223

DECISION NO. 61790**OPINION AND ORDER**

DATE OF HEARING: May 20, 1999

PLACE OF HEARING: Phoenix, Arizona

PRESIDING OFFICER: Marc E. Stern

APPEARANCES: Mr. Peter Breen, Staff Attorney, Legal Division, on behalf of
the Utilities Division of the Arizona Corporation Commission.**BY THE COMMISSION:**

On April 27, 1999, the Arizona Department of Transportation ("ADOT") submitted to the Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the approval of an agreement between ADOT and the Union Pacific Railroad ("Railroad") to construct an automatic flashing light signal with gates at Mineral Hill Road, Pima County, Arizona, at milepost BAN-1002.73-C. ("Application").

On May 4, 1999, by Procedural Order, the Application was set for a hearing and ADOT was ordered to notify any interested party of the Application and the hearing.

On May 12, 1999, ADOT filed certification that notice had been provided pursuant to the terms of the Procedural Order.

On May 20, 1999, a full public hearing was held before a duly authorized Hearing Officer of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the matter was taken under advisement pending submission of a Recommended Opinion and Order to the Commission.

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Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On April 27, 1999, ADOT filed an Application in which it requested an Opinion and Order from the Commission with respect to an agreement between ADOT and the Railroad for the installation of an automatic flashing light signal with gates at Mineral Hill Road, Pima County, Arizona, at milepost BAN-1002.73-C.

2. On May 12, 1999, ADOT provided notice by registered U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on May 20, 1999.

4. The Application provides for the Railroad to upgrade the crossing with an automatic flashing light signal with gates and wood planking.

5. Staff testified that the cost apportionment for the installation of the crossing upgrade as provided in the Application was proper.

6. Staff has recommended that the Application be approved.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. Installation of the crossing upgrade is necessary for the public's convenience and safety.

4. The Application should be approved as recommended by Staff.

5. After installation of the crossing, the Railroad should maintain the crossing in accordance with A.A.C. R14-5-104.

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ORDER

IT IS THEREFOR**E ORDERED that the Arizona Department of Transportation's Application is hereby approved.

IT IS FURTHER ORDERED that the Union Pacific Railroad shall complete the crossing upgrade as described in the Application within fifteen months from the effective date of this Decision.

IT IS FURTHER ORDERED that the Union Pacific Railroad shall notify the Commission, in writing, within ten days of both the commencement and the completion of the crossing upgrade, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific Railroad shall maintain the crossing in compliance with A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


CHAIRMAN


COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 29th day of June, 1999.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
MES:bbs

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD
2 DOCKET NO. RR-03639A-99-0223
3 John Syers, Railroad Engineering Coordinator
4 ADOT
5 Intermodal Transportation Division
6 Utility & Railroad Engineering Section
7 205 South Seventeenth Avenue, Mail Drop 618E
8 Phoenix, Arizona 85007-3276
9 Bob N. Prince
10 UNION PACIFIC RAILROAD COMPANY
11 101 S. Watson Road
12 Arlington, Texas 76010
13 Paul Bullis, Chief Counsel
14 Legal Division
15 ARIZONA CORPORATION COMMISSION
16 1200 West Washington Street
17 Phoenix, Arizona 85007
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